

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 SEAN THOMAS ROOKE, ) No. CV 11-0955-PHX-RCB (JRI)  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 ELDON VAIL, et al., )  
13 Defendants. )  
14

15 Plaintiff Sean Thomas Rooke, a Washington inmate now confined in Stafford Creek  
16 Corrections Center in Aberdeen, Washington, filed a *pro se* civil rights Complaint pursuant  
17 to 42 U.S.C. § 1983 in the District Court for the Western District of Washington. That Court  
18 transferred the case to this District based on venue because Plaintiff's claim concerned the  
19 loss of property while he was confined in the Red Rock Correctional Center (RRCC), a  
20 Corrections Corporation of America (CCA) facility, in Eloy, Arizona. The Court  
21 subsequently dismissed the Complaint for failure to state a claim with leave to amend. (Doc.  
22 13.) Plaintiff has filed a First Amended Complaint. (Doc. 15.) The Court will dismiss the  
23 First Amended Complaint with leave to amend.

24 **I. Statutory Screening of Prisoner Complaints**

25 The Court is required to screen complaints brought by prisoners seeking relief against  
26 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
27 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
28 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may

1 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
2 28 U.S.C. § 1915A(b)(1), (2).

3 A pleading must contain a “short and plain statement of the claim *showing* that the  
4 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not  
5 demand detailed factual allegations, “it demands more than an unadorned, the-defendant-  
6 unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
7 “Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
8 statements, do not suffice.” Id.

9 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
10 claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,  
11 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
12 that allows the court to draw the reasonable inference that the defendant is liable for the  
13 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for  
14 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
15 experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual  
16 allegations may be consistent with a constitutional claim, a court must assess whether there  
17 are other “more likely explanations” for a defendant’s conduct. Id. at 1951. But as the  
18 United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue  
19 to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010). A  
20 “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards than formal  
21 pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89, 94 (2007) (*per*  
22 *curiam*)).

23 If the Court determines that a pleading could be cured by the allegation of other facts,  
24 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
25 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
26 should not, however, advise the litigant how to cure the defects. This type of advice “would  
27 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,  
28 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was

1 required to inform a litigant of deficiencies). The Court will dismiss Plaintiff's First  
2 Amended Complaint for failure to state a claim with leave to amend because he may be able  
3 to amend it to state a claim.

## 4 **II. First Amended Complaint**

5 Plaintiff alleges a single count concerning a loss of property while he was housed at  
6 RRCC. Plaintiff sues Eldon Vail, the Secretary of the Washington Department of  
7 Corrections. He also sues the following CCA employees: A. Kenney, Superintendent Bruno  
8 Stolc, and Correctional Officer. Kossman. Plaintiff seeks compensatory relief.

9 Plaintiff allege the following facts in his Complaint: on January 8, 2009, Plaintiff, who  
10 did not then have a cell-mate, was moved to administrative segregation. Plaintiff's old cell  
11 was not secured to prevent the theft of his property. Late that evening, an officer arrived at  
12 Plaintiff's cell in administrative segregation to have Plaintiff sign a personal property  
13 inventory and non-allowable items. Plaintiff told the officer that most of his possessions  
14 were not listed on either sheet, but that officer said he did not know anything about it.  
15 Plaintiff "feel[s]" that the unidentified officer who packed up his cell and signed the property  
16 inventory is at fault for the loss of his property for failing to promptly secure his cell after he  
17 was moved. Because his old cell was not secured, Plaintiff lost personal property and all of  
18 his legal work concerning his appeal. As a result of the disappearance of his legal work, he  
19 was unable to appeal his conviction.

## 20 **III. Failure to State a Claim**

21 To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the  
22 conduct about which he complains was committed by a person acting under the color of state  
23 law and (2) the conduct deprived him of a federal constitutional or statutory right. Wood v.  
24 Ostrander, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a plaintiff must allege that he  
25 suffered a specific injury as a result of the conduct of a particular defendant and he must  
26 allege an affirmative link between the injury and the conduct of that defendant. Rizzo v.  
27 Goode, 423 U.S. 362, 371-72, 377 (1976).

28 . . .

1           **A.     Failure to Link Violation to Any Defendant**

2           Plaintiff sues the Defendants for the loss of property. Plaintiff fails, however, to  
3 allege any facts to connect any Defendant to any constitutional violation.

4           A “plaintiff must allege facts, not simply conclusions, that show that an individual was  
5 personally involved in the deprivation of his civil rights.” Barren v. Harrington, 152 F.3d  
6 1193, 1194 (9th Cir. 1998). For an individual to be liable in his official capacity, a plaintiff  
7 must allege that the official acted as a result of a policy, practice, or custom. See Cortez v.  
8 County of Los Angeles, 294 F.3d 1186, 1188 (9th Cir. 2001). Further, there is no *respondeat*  
9 *superior* liability under § 1983, so a defendant’s position as the supervisor of someone who  
10 allegedly violated a plaintiff’s constitutional rights does not make him liable. Monell v.  
11 Dep’t of Soc. Servs., 436 U.S. 658, 691 (1978); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir.  
12 1989). A supervisor in his individual capacity, “is only liable for constitutional violations  
13 of his subordinates if the supervisor participated in or directed the violations, or knew of the  
14 violations and failed to act to prevent them.” Taylor, 880 F.2d at 1045.

15           Because Plaintiff fails to allege facts to support the involvement of any Defendant in  
16 a federal constitutional violation, Plaintiff fails to state a claim under § 1983 against any  
17 Defendant.

18           **B.     Due Process**

19           As noted above, Plaintiff alleges the deprivation of property without due process. In  
20 Parratt v. Taylor, 451 U.S. 527, 541 (1981), the Supreme Court held that due process is not  
21 violated when a state employee negligently deprives an individual of property, as long as the  
22 state makes available a meaningful post-deprivation remedy. The rationale underlying  
23 Parratt is that *pre*-deprivation procedures are impractical when the deprivation of property  
24 occurs through negligent conduct of a state employee because a state cannot know when such  
25 deprivations will occur. Hudson v. Palmer, 468 U.S. 517, 533 (1984). “Where a government  
26 official’s act causing injury to life, liberty, or property is merely negligent, ‘no procedure for  
27 compensation is *constitutionally* required.’” Daniels v. Williams, 474 U.S. 327, 333 (1986)  
28 (emphasis added) (quoting Parratt, 451 U.S. at 548).

1 The logic of Parratt has been extended to intentional unauthorized deprivations of  
2 property by state actors because a state also cannot know when such deprivations will occur.  
3 Hudson, 468 U.S. at 533. As with negligent deprivations, where a state makes available a  
4 meaningful *post*-deprivation remedy, such as a common-law tort suit against a prison  
5 employee for intentional unauthorized deprivations, a federal due process claim is precluded.  
6 Hudson, 468 U.S. at 534-35; King v. Massarweh, 782 F.2d 825, 826 (9th Cir. 1986).

7 Plaintiff fails to sufficiently allege circumstances surrounding the loss of his property,  
8 including what and by whom, if known. Further, the facts alleged by Plaintiff only rises to  
9 the level of negligence. However, as explained above, negligent deprivations of property do  
10 not rise to the level of a constitutional violation.

11 *If* Plaintiff is attempting to allege an intentional *unauthorized* deprivation of property  
12 by prison staff, he also fails to state a constitutional claim. Under Arizona state law, Plaintiff  
13 has an available post-deprivation remedy via an action for conversion. See Howland v. State,  
14 818 P.2d 1169, 1172-73 (Ariz. Ct. App. 1991) (prison officials' confiscation of and failure  
15 to return prisoner's personal property states a state law claim for conversion)<sup>1</sup>; see also  
16 Wright v. Riveland, 219 F.3d 905, 918 (9th Cir. 2000) (prisoners in Washington have  
17 adequate post-deprivation remedies to challenge deductions from inmate accounts by  
18 utilizing the prison grievance procedure or by filing a state tort action).

19 *If*, on the other hand, Plaintiff is attempting to allege a deprivation of property by  
20

---

21 <sup>1</sup> Arizona Revised Statute 31-201.01(L) does not preclude Plaintiff from seeking  
22 relief for conversion to the extent that he sues private prison employees. Section  
23 31-201.01(L) provides that:

24 A person who is convicted of a felony offense and who is incarcerated while  
25 awaiting sentence or while serving a sentence imposed by a court of law may  
26 not bring a cause of action seeking damages or equitable relief from the state  
27 or its political subdivisions, agencies, officers or employees for injuries  
28 suffered while in the custody of the state or its political subdivisions or  
agencies unless the complaint alleges specific facts from which the court may  
conclude that the plaintiff suffered serious physical injury or the claim is  
authorized by a federal statute.

1 prison staff pursuant to prison regulations or policies, he *may* be able to state a Due Process  
2 violation. To state a federal constitutional claim, Plaintiff must allege facts to support that  
3 a deprivation was (a) authorized by prison policies or regulations, (b) by a Defendant, and  
4 (c) absent pre-deprivation procedures. Because Plaintiff fails to allege facts to support that  
5 he was deprived of property pursuant to prison policies or regulations without pre-  
6 deprivation procedures, he fails to state a constitutional claim for violation of Due Process.  
7 For that reason, he fails to state a constitutional claim for deprivation of property.

### 8 **C. Access to the Courts**

9 Plaintiff in part alleges that the loss of his personal property prevented him from  
10 appealing his conviction. Although not set out as a separate claim, it appears that Plaintiff  
11 may be attempting to allege a denial of access to the courts.

12 The constitutional right of meaningful access to the courts prohibits state officials  
13 from actively interfering with an inmate's attempt to prepare or to file legal documents.  
14 Lewis v. Casey, 518 U.S. 343, 350 (1996). That right, however, only encompasses the right  
15 to bring a petition or complaint to federal court and not to discover or even effectively litigate  
16 claims once filed with a court. Id. at 354; see Cornett v. Donovan, 51 F.3d 894, 899 (9th Cir.  
17 1995) ("The right of access is designed to ensure that a habeas petition or civil rights  
18 complaint of a person in state custody will reach a court for consideration.") The right  
19 "guarantees no particular methodology but rather, the conferral of a capability – the  
20 capability of bringing contemplated challenges to sentences or conditions of confinement  
21 before the courts." Lewis, 518 U.S. at 356. That is, the right of access to the courts is only  
22 a right to bring complaints to federal court and not a right to the discovery of such claims or  
23 to litigate them effectively once filed with a court. See id. at 354-55. An inmate must also  
24 allege facts to support that he suffered an "actual injury." Id. at 351-53; see Vandelft v.  
25 Moses, 31 F.3d 794, 797 (9th Cir. 1994). An "actual injury" is "actual prejudice with respect  
26 to contemplated or existing litigation, such as the inability to meet a filing deadline or present  
27 a claim." Lewis, 518 U.S. at 348. In other words, a plaintiff must allege *facts* to support that  
28 a defendant's conduct prevented him from bringing to court a non-frivolous claim that he

1 wished to present. Id. at 351-53. A plaintiff “must identify a nonfrivolous, arguable  
2 underlying claim,” and this underlying claim “must be described in the complaint.”  
3 Christopher v. Harbury, 536 U.S. 403, 414-15 (2002).

4 As discussed above, Plaintiff fails to allege any active involvement by any Defendant  
5 in the loss of his property. Rather, the loss of property appears to be merely negligent.  
6 Plaintiff also does not identify a nonfrivolous, arguable underlying claim that he intended to  
7 present in an appeal. For both reasons, Plaintiff fails to state a claim for denial of access to  
8 the courts.

#### 9 **IV. Leave to Amend**

10 For the foregoing reasons, Plaintiff’s First Amended Complaint will be dismissed for  
11 failure to state a claim upon which relief may be granted. Within 30 days, Plaintiff may  
12 submit a second amended complaint to cure the deficiencies outlined above. The Clerk of  
13 Court will mail Plaintiff a court-approved form to use for filing a second amended complaint.  
14 If Plaintiff fails to use the court-approved form, the Court may strike the amended complaint  
15 and dismiss this action without further notice to Plaintiff.

16 Plaintiff must clearly designate on the face of the document that it is the “Second  
17 Amended Complaint.” The second amended complaint must be retyped or rewritten in its  
18 entirety on the court-approved form and may not incorporate any part of any prior complaint  
19 by reference. Plaintiff may include only one claim per count.

20 A second amended complaint supersedes every prior complaint. Ferdik v. Bonzelet,  
21 963 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d  
22 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat every prior complaint as  
23 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in a prior  
24 complaint is waived if it is not raised in a second amended complaint. King v. Atiyeh, 814  
25 F.2d 565, 567 (9th Cir. 1987).

#### 26 **V. Warnings**

##### 27 **A. Release**

28 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.

1 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay  
2 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result  
3 in dismissal of this action.

4 **B. Address Changes**

5 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
6 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
7 relief with a notice of change of address. Failure to comply may result in dismissal of this  
8 action.

9 **C. Copies**

10 Plaintiff must submit an additional copy of every filing for use by the Court. See  
11 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice  
12 to Plaintiff.

13 **D. Possible “Strike”**

14 Because the Complaint and First Amended Complaint have been dismissed for failure  
15 to state a claim, if Plaintiff fails to file an amended complaint correcting the deficiencies  
16 identified in this Order, the dismissal may count as a “strike” under the “3-strikes” provision  
17 of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action  
18 or appeal a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on  
19 3 or more prior occasions, while incarcerated or detained in any facility, brought an action  
20 or appeal in a court of the United States that was dismissed on the grounds that it is frivolous,  
21 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is  
22 under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

23 **E. Possible Dismissal**

24 If Plaintiff fails to timely comply with every provision of this Order, including these  
25 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at  
26 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
27 Court).

28 . . .




1 **IT IS ORDERED:**

2 (1) The First Amended Complaint is **dismissed** for failure to state a claim. (Doc.  
3 15.) Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint  
4 in compliance with this Order.

5 (2) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
6 Court must, without further notice, enter a judgment of dismissal of this action with prejudice  
7 that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

8 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil  
9 rights complaint by a prisoner.

10 DATED this 4th day of October, 2011.

11  
12  
13   
14 Robert C. Broomfield  
15 Senior United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing Fee. The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$350 filing fee or the application to proceed *in forma pauperis* to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

## 12. Completing the Civil Rights Complaint Form.

### **HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

### **Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

### **Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

### **Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.

3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.

4. Injury. State precisely how you were injured by the alleged violation of your rights.

5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

#### **Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

#### **SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

#### **FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

_____ (Full Name of Plaintiff)	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. _____
	)	(To be supplied by the Clerk)
(1) _____ (Full Name of Defendant)	)	
(2) _____	)	
(3) _____	)	
(4) _____	)	
Defendant(s).	)	
<input type="checkbox"/> Check if there are additional Defendants and attach page 1-A listing them.	)	

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

☐ Original Complaint

☐ First Amended Complaint

☐ Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:
- ☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
  - ☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
  - ☐ Other: \_\_\_\_\_
2. Institution/city where violation occurred: \_\_\_\_\_

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_. The first Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_. The second Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_. The third Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_. The fourth Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

#### D. CAUSE OF ACTION

## COUNT I

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies:

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count I? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_



## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

□ Basic necessities

□ Mail

☐ Access to the court

☐ Medical care

☐ Disciplinary proceedings

□ Property

☐ Exercise of religion

□ Retaliation

☐ Excessive force by an officer

- Threat to safety

☐ Other:

---

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

[illegible]

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

---

---

---

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No

- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No

- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No

- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

□ Basic necessities

□ Mail

☐ Access to the court

☐ Medical care

☐ Disciplinary proceedings

□ Property

☐ Exercise of religion

□ Retaliation

☐ Excessive force by an officer

- Threat to safety

☐ Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

---

---

---

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No

☐ Yes☐ No

- b. Did you submit a request for administrative relief on Count III?

☐ Yes☐ No

- c. Did you appeal your request for relief on Count III to the highest level?

☐ Yes☐ No

- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

---

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

### **E. REQUEST FOR RELIEF**

State the relief you are seeking:

---

---

---

---

---

---

---

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

---

---

---

\_\_\_\_\_  
(Attorney's address & telephone number)

### **ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.